

REASONS

Humbly offered to both

Houses of Parliament,

For Passing a B I L L

For Preventing Delays
and Expences in Suits
in Law and Equity.

L O N D O N:

Printed, and are to be Sold by *John Morphew*, near
Stationers-Hall, 1707.

R E A S O N S

For the

House of Parliament

For passing a Bill

For Proving Debts
and Expenses in Suits
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For Passing a BILL, for preventing Delays and Expences, in Suits in Law and Equity.

THE unavoidable Expence, as well as Unnecessary Delay, in the Prosecution of Suits in the Courts of Law and Equity, (especially in the latter) are become so Exorbitantly great and burthensome to the Subject, that they may justly be ranged among our first Rate Grievances. It must be granted by every Man of Common Observation, that the Methods of Proceeding in our Courts (designed for Speedy Justice) are fully ripe for a Regulation, when a Passive Submission to Injuries (unless of a very High Nature) is much more for the Advantage of the Injured Person, than an Application to our Courts for Redress. A Man's Prudence may very Rationally be called in Question, who brings an Action at Law for a Slender Debt; But he must be perfectly senceless who seeks for Redress, for a Debt of 50 or 60 *l.* in a Court of Equity, since, as the Practice now stands, his Adversary may make him spend twice his Debt before

fore he can recover it. The Case therefore being thus, there's no room to doubt, but that a Bill that will Effectually redress some of these Grievances, will meet with all imaginable Encouragement.

I. As to a Clause to enact, That any Plaintiff, at his Election, may deliver a Declaration to any Defendant or his Wife cohabiting with him, or to the Servant of any Corporation capable of being Sued, and take Judgment for want of an Appearance and a Plea.

The way now used, is to Sue out a Writ directed to the Sheriff of the County, where the Defendant lives, which with the Attorneys Fee that Sues the same out, comes to Eight or Nine Shillings; on which the Sheriff makes out his Warrant to his Bayliff, which in some Counties Costs One Shilling, in some Two Shillings, and in others less: On this the Bayliff may insist on a Bond of 40 *l.* Penalty with Sureties from the Defendant to appear, tho' the Action be but for Words, Trespass, or Assault, or in Debt, or Case under 10 *l.* but it's most usual to take a Warrant from such Defendant directed to some Attorney to appear for him, and on the Bayliff's obtaining such Bond or Warrant, the lowest Summ that's paid for his Pains by the Plaintiff's Attorney, is Five Shillings, and sometimes more, besides which, the Bayliff demands 2 *s.* 4 *d.* of the Defendant at the time he Arrests him, as the Sheriff's Fee, and always takes much more for waiting and Civility Money: So that the least that is Spent by both sides on the first beginning of the smallest Action is Twenty Shillings: but if the Writ be for more than 10 *l.* the Bayliff demands of the Plaintiff's Attorney always Ten Shillings at least, on bringing him a Bail Bond, and often extorts 20 *l.* or more from the Defendant,

dant, whilst in his Custody, (besides his Sheriff's Fee), and that he calls * *Civility* Money, and is extorted from the Prisoner, to prevent his being carried directly to the County Goal, and for being admitted to continue in the Bayliff's House, commonly called the *Spunging-House*, till he can send to his Friends to Bail him, and there the Bayliff's Followers drink plentifully on his Score, and if any Scruple be made of paying all the unreasonable Demands that are made for the Reckoning, then the best Bail that can be found out, is rejected, and perhaps the Person is hurried into Goal, where he's loaded with new Fees for Commitment, Discharge, &c. before he can obtain his Liberty, so that it very often costs a Person arrested for a small Debt of 30. or 40 l. who lies in a *Spunging-House* but one Night, three Pounds and upwards, besides which, if he be able, he must at last pay the Plaintiff his Charges of the Writ and the Arrest; however, to make the lowest Computation possible, it costs both sides, where an Arrest is made for 100 l. or upwards, and a Bail-Bond taken, Thirty Five Shillings; by this Expensive way, to all Sides, a Plaintiff obtains either Special Bail, or a Common Appearance at the Return of the Writ, and where the Defendant is minded to delay he often suffers the Bail-Bond to be Sued to the great delay of the Plaintiff, and keeping him out of his just Debt; and in some Counties, tho' a Man appears Publickly, yet if he be protected by the Sheriff, or by the Bayliff of the Liberty, or Hundred, where he lives, a Plaintiff shall lose a Years time, or more, before he can get even a common Appearance, and without that, as the Law now stands, no Man can proceed

* Note, The Plaintiff or his Attorney is very often forced to be as the Bayliff's Follower; otherwise the Defendant would either not be arrested, or else privately discharged, on Payment of *Civility* Money.

to Declare: But if what's now proposed, has the desired Success, most Causes will be shorter by a Term, and Persons who are necessitated to bring Actions, will sooner recover their just Rights; and when Judgment is obtained, a Defendant will be in a better Condition to Pay, than when he has been Pillaged by the Bayliffs and their Followers; and in short, upon a Modest Computation, it will save the Subjects of England 30000 l. per Ann. and upwards, the greatest part whereof is at present, distributed amongst the Bayliffs and their Followers, the rest of it comes, in very small Summs to the Curstors, who make out Original Writs, to the Philazers of the Common Pleas, who make out all Writs of *Capias*, to the Attorneys of the Queens Bench, who make out all Bills of *Middlesex* and *Latitats*, to the *Custos Brevium* belonging to the Common-Pleas, who has Four Pence for filing every Original Writ, to the Under Sheriffs, who make out the Warrants and indeed to all Attorneys that love to make Causes long and Chargeable to their Clients.

And farther, This Clause will advance Publick Credit, by framing a better Method of Suing Corporations than any yet known, and providing a way to Sue persons, in Trade and Credit, without sending Bailiffs af-

Note, The Curstors, Philizers, and Custos Brevium, have but 2s. 2d. for every Original and Capias, but the Bayliff gets 20 or 30 s. and very oft a great deal more, by making the Arrest: And if a Writ be sued out, and a Copy thereof annexed to each Declaration Delivered, and the Writ is self annexed to the Affidavit of Service, then all the Objections of the Curstors, Philizers, or Custos Brevium, &c. will be fully answered, and the Attorney will also have his Fee for Suing the same out: The Postage will be likewise encreased by sending the Declaration down with the Writ, and returning them both back with the Affidavit; the Stamp-Duty will be advanced also by the Affidavits, Rules to Plead, &c.

ter them ; and will also prevent many Clandestine Outlawries.

And if the People of England will be sooner helped to their Rights, and so great a Sum saved in their Purses, as is above mentioned ; 'tis hoped there will be no regard had to any particular Body, or number of Men (especially of this Sort) who enrich themselves by doing that which there's no Occasion for.

Note, this is agreeable to the * Method now used in the bringing of an Ejectment, which turns a Man out of Possession, and is of as tender a Consideration, as any thing can be ; and any Plaintiff may now obtain Judgment as quick as he can, by this Clause, by being at the Charge of suing a special Writ, which contains the Declaration.

II. As to a Clause for giving Bayle in all Cases, where a Writ of Error is brought to reverse a Judgment before Trial, now used on Writs of Error after Verdict.

This Clause will prevent Persons from keeping their Creditors at Bay, with a Writ of Error for Twelve Months, during which time, they get in their Effects, and when the Writ of Error is high spent, they run away with them.

And the very same Reason holds for giving Bayle, on bringing Writs of Error to reverse a Judgment, where Damages are found on a Writ of Inquiry as after Tryal.

* The Method here proposed is also agreeable to the Common Law, whereby a Summons was the first Process, the Capias being given by Acts of Parliament.

III. As

III. *As to the regulating Sheriffs Fees on Elegits and Extents, &c.*

As the Law now stands, if a Sheriff takes an Inquisition on an *Elegit*, and delivers a *Moiety* to the Plaintiff by Virtue of such Writ, or makes a return that he has delivered Possession pursuant to any Writ of *Liberate*; he usually takes Twelve Pence per Pound, for the first 100 *l.* and Six pence per Pound afterwards, for all the Money due by the Statute or Judgment, and this he takes under Colour of an Act of Parliament made in the 29 *Eliz.* Cap. 5. which certainly intended that the Sheriff should deliver actual Possession; but he really does no more than take an Inquisition, or return his Writ; for the Plaintiff, notwithstanding such fictitious delivery by the Sheriff, must bring his Ejectment, and recover a Verdict, &c. Law; and if on the Tryal, any Prior Settlement, or other Incumbrance is trumped up, (as too often happens) the Plaintiff is Non-suited, and has only the mortification to find himself so much more Money out of Purse (perhaps 2 or 300 *l.* for Sheriffs Fees in particular) without knowing how to remedy himself; or if he recovers, he must pay the Sheriff over again, for his delivering him the Actual Possession, on a Writ of *habere facias possessionem*; and therefore 'tis hoped, that it will not be thought reasonable, that a Sheriff should take such large Fees, only for taking an Inquisition or returning a Writ.

IV. *As to a Remedy for all Persons in the Recovery of their Debts by Judgments.*

As

As the Law now stands, if an *Elegit* be returned and filed, or entred on Record, tho' the Plaintiff never recovers Six-pence by it; yet such returning and filing or entring of Record, is a Bar upon such Plaintiff, that he cannot take out any other *Elegit*, or Execution against the Body or Goods of the Defendant, tho' he be able to pay the Debt which is surely such a grievance as is fit to be remedied.

V. *As to a Clause to prevent the Subjects paying double for the ingrossing Records of Nisi prius.*

The proper Officer did Anciently Ingross all Records of *Nisi prius*, but as Business encreased, he did not increase his Number of Clerks, and those he had, not being able to dispatch all the Business, the Attorneys, to prevent multiplicity of Attendances, and giving Expedition-Money, did, and for many Years last past, have ingrossed all their Records themselves, for which they Charge 4d. per Sheet to their Clients, and pay the proper Officer all his Fees also; so, that at present, the Client pays double, and therefore, by this Clause, 'tis intended, the Subject should be eased, and the Attorney, *who does all the Business*, should have 4d. per Sheet for doing something, and that the Officer should be content with 4d. per Sheet more, for doing nothing.

VI. *As to a Clause touching the Filing of Affidavits, and to prevent the unnecessary Expence thereof.*

At Law, 'tis now Customary to read Affidavits before filed, if Sworn in Town, but otherwise, if Sworn in the Country, tho' there appears no material Difference, for he that forswears himself, either be-

fore a Judge, in Town, or Commissioner in the Country, is equally guilty of Perjury, and if they are Filed as soon as used, that will hereafter prevent all Opportunities of altering as much as the Method now used, since the Attorney, in both Cases, must have the Custody of the Affidavit from Swearing till Filing it, and since at Law, there is no Fee due on filing an Affidavit after read in Court (for which this Clause allows a Fee) the Officer will gain by Filing, tho' he looses by Copies, and it seems as unreasonable as it is useless, to make a Person take and pay for a Copy of an Affidavit, which he had once in his Hands, and consequently a Power of Copying it himself, and yet as the Course and Practice of the Courts of Law and Equity now stand, the Party, who would use any Affidavit, must leave his Original with the Officer, and pay him large Fees for a Copy, so that in Matters, where many long Affidavits are required, * it often *Costs a Man 10 or 15 l. for Copies of his own Affidavits*, on one single Motion, whereby the Charge of a Motion very often exceeds the whole Expence of a Trial at Law; which unnecessary Charge this Clause will effectually prevent.

VII. *As to a Clause for taking away all Copies of Interrogatories, and for the Filing Reports and Certificates, without being obliged to take Copies thereof.*

It seems very Ridiculous, that any one should be obliged to take and pay for Copies of what he before had, or has no occasion for at all, and yet this is the Case here, for every one must take Copies of Interroga-

* *The Affidavit-Office in Chancery, which is said to be formerly sold for 250 l. is now computed to bring in 1000 l. per Annum.*

tories (which are of themselves of no Use) If he will have Copies of the Depositions for which he has Occasion: Nay, every Person is now obliged to take Copies of the Interrogatories Exhibited by himself (and often twice over both from the Examiners and Six Clerk's Office), although he had the Original before, if he will have a Copy of Depositions taken thereon. The same Reasons hold against being obliged to take and pay for Copies of Reports and Certificates, for the Filing whereof there's a Fee of 4 *d.* due, and yet the Officer makes every Person, who Files a Report or Certificate to pay for a Copy, which is just as Reasonable as if every Person, who Files a Bill or Answer in Chancery, should be obliged to take and pay for a Copy thereof. Note, *the Fees of this Office are very Extravagant.*

VIII. *As to a Clause for taking away all Recitals, in Decrees and Orders in Courts of Equity.*

The Deputy Registers in Chancery draw up and pass all Orders, and take 3 *s.* for each side, containing about 170 Words, and if the Order be by consent 6 *s.* per Side, and in all Orders on hearing they recite the Bills, and Answers, and in other Orders the Allegations of the Council *Pro* and *Con*, And as Instructions for them to Act by, they require one of the Councils Briefs, which necessarily contains the whole State of the Case, by which they furnish themselves with Matter for lengthening the Orders (of which their Interest Prompts them to make use) by which Means the Recitals and Allegations are spun out to a tedious length, and oftentimes the whole Brief incerted, so that Orders on hearing many times,

come to 10 or 15 *l.* and other Orders to 20 or 30 *s.* when as the Charge of the ordering part of the former seldom exceeds 30 *s.* and of the latter, scarce ever more than 3 *s.* and as the length of the Orders increase the Charge, so it does the delay, which gives Birth to the New Perquisite of Expedition Money, and a Suitor must either attend two or three Months for an Order on hearing, and proportionably for another Order, or be in the Case of a Criminal, who pays for dispatching a Business, he had rather shou'd be left undone; and yet all these Recitals and Allegations, are perfectly useless and insignificant to the Party; for neither side is concluded thereby, and the * Bills and Answers recited *are on Record in the proper Office*, and each Party has a Copy of them too. And yet by these Recitals, he must be told what he knew before, and pay dear too, for being thus teased; and the Allegations are for the same Reasons, as useless as the Recitals; and yet 'tis become a Rule now with the Deputy Registers, that one side shall not alter the Allegations of the other, though false, but must alledge the contrary by way of Answer thereto, which still serves to lengthen them; whence it happens that the Orders, often carry in them contradictory, and sometimes *very idle and impertinent Allegations*; for which the Order it self has been afterwards *Discharged*. And the Court is so sensible of these Matters, that they seldom permit any thing more than the ordering part to be read, and there are no such Recitals or Allegations in *Orders on Appeals in Parliament nor in Rules at Law*.

* For the Bills and Answers the Party pays 8d. a Sheet for Copies from the Six-Clerks-Office; 3 *s.* a Side for the Recitals thereof, from the Register's Office, and about 2 *s.* a Side for the like Recitals from the Six-Clerks-Office, in case the Decree be Inrolled, and a Writ of Execution thereof made; so that the Suitor pays three times for the same thing.

The Objections to this Clause ; therefore, (if any) will arise from Interest, not from Reason, and 'tis true, 'twill take away some of the Perquisites enjoyed by the Register or his Deputy.

In Answer to which, 'tis to be observed, that the Deputy Registers cannot pretend the common Plea of purchasing their Places ; And the Register himself, has his place by gift from the Crown, and receives a yearly Sum from his Deputies, who have lately so exorbitantly abused this Method of Recitals and Allegations ; that tho' 'tis apparent that Business has decreased, yet their Profits have advanced. And this abuse of the Practice, is a full answer to the Reason that may be drawn from the ancient use of the Recitals in Orders, since they were formerly very short and concise, and though useless, yet being short, did but little hurt ; but their Exorbitancy now seems to require such a Remedy, as to *take away all future Temptations to the like excess.*

If it be objected that the Recitals of Bills and Answers, shew the Reason of the Decree.

That is a vain Pretence ; for most of the Suggestions of the Bill are fictitious, and the Answer frequently falsified by Depositions, (which are the real Foundation of the Decree, but are never recited therein) : So that the recitals of a fictitious Bill, and untrue Answer, rather give the Decree an aspect of injustice, than shew the true Reason of it, and often draw the Parties into Re-hearings and Appeals, upon a mistaken Notion of the hardship of their Case, so seemingly just as the present Recitals represent it.

So that 'tis hoped the Interest of the Deputy Registers (most of whom have already well filled their Pockets, by emptying those of the Suitors) will not prevail against the Publick Good ; and the Deputy Registers will still have profit enough to encourage their Diligence, and to pay the Register what they formerly did, and none therefore, 'tis hoped will oppose this Clause.

And tho' the Excess of the other Courts of Equity, are not so great, *yet the Reason of the Clause will hold the same in all.*

IX. *As to the Clause for making Subpena's to answer returnable immediate of Course.*

The Subpena to appear to the Bill, which is the first Process, is at present made returnable in Term, unless Affidavit be made, that the Defendant resides within 10 Miles of *London* ; whereupon the Court upon Petition, grants a Subpena returnable *immediate of Course* ; and on a second Petition, all other Process returnable immediate, which Subpena being only for an Appearance, (for Entering whereof the Defendant has Four Days allowed after Service of the Subpena,) 'tis unnecessary to apply to the Court to make the Subpena, or any other Process returnable immediate ; those Two Orders of Court, (against which the Defendant has now no liberty to make a Defence, nor is it needful) putting the Subject to 27 or 28 s. unnecessary Charges.

X. *As to a Clause touching Subpena's to rejoyn, and that Service thereof on the Clerk in Court, be good Service of the Defendant.*

'Tis

'Tis what the Court always Orders of course; but the obtaining it, costs the Subjects 15 or 20 s. which may as well be saved.

XI. *As to a Clause to make a Sequestration, the Second Process.*

The present Practice is, that after the Defendant is served with a Subpena to appear, and will not appear or Answer, First, an Attachment Issues against him, and on return of that (which is often a quarter of a Year before it can be obtained.) A Second Attachment called a Proclamation, Issues much the same with the First. On both which the Sheriff will return *Non est inventus*, without giving the Defendant any notice of such Writs; and on return of the Proclamation, a Commission of Rebellion Issues directed to Commissioners to take the Defendant; and upon their return of *Non est inventus*, the Sergeant at Arms is sent in Quest of him, who puts the Plaintiff to a great Charge, whether he finds the Defendant or not, for his usual daily Fee is 13 s. 4 d. (besides 6 d. per Mile or more for Travelling Charges while abroad, and he is also paid (whether he takes the Defendant or not) 3 l. 6 s. 8 d. for returning his Warrant, and insists on 3 l. 6 s. 8 d. for every Defendant named in such Warrant; (which Warrant and the Order of Court cost above 40 s. besides, if but one Defendant, but if against more, then 15 s. is demanded for every other Defendants Name therein) and then a Sequestration issues, and cannot be obtained sooner; so that the Charge for getting only an Appearance, is often near as great as a Decree; and then for an Answer, the same Circle is to be run again, and so Toties quoties for every better Answer; and the same all over again, to oblige the Performance of any Order; whereby One
Party

Party is totally Ruined before he gets half way to the Hearing, or can have even a Sequestration.

I. *Objection*, That to make a Sequestration the second Process, is too quick a Proceeding.

Answer. 'Tis what both Houses of Parliament have subjected themselves to ; And why should those who are engag'd in no National Affairs, have more Time or Favour allowed than they ? and the way of proceeding against Members, is upon due Notice and reasonable Time, given to shew Cause before the Sequestration issues, so as the Defendant may avoid it (if he pleases) And it not only avoids the Circuity and Delays abovementioned, but the Mischiefs of Process being clandestinely return'd by the Sheriffs and Commissioners ; and the excessive Charge of being taken by a Serjeant at Arms (which ruins any Person of mean condition) his Fees, if he takes the Defendant, being frequently 50. 60. or 100. Pounds : And sometimes the Defendant never hears of any Process of Contempt, till the Serjeant takes him ; all the Process being return'd privately : And the Court has still power on the Defendants Application, to indulge him with what time shall appear necessary, in case his Delays are not wilful.

II. *Objection*, That the Defendants are for the most part Arrested upon the Attachment or Proclamation, which are but a small Charge to either Plaintiff or Defendant in respect of a Sequestration.

Answer. If a Defendant happens to be taken, without a Serjeant at Arms (if in *London*) he enters his Appearance with the Register and then often runs away :
or

or (if in the Country) the Sheriff takes a Forty Pound Bail Bond for his Appearance at the Return of the Writ; (when perhaps the matter in question is many thousand Pounds value) and the Plaintiff must sue this Bond at Law; and when the Forty Pound Penalty is recovered, the Plaintiff must take out another Attachment for his Answer, and so again Toties Quoties; whereas the Interest of the matter in question will pay that Penalty and Costs of Tryal ten times over; and yet the Sheriff is oblig'd to accept Forty Pound Bail, and is thereupon discharg'd from bringing in his Prisoner; and the Court won't grant a Messenger to bring the Defendant into the Court, unless the Attachment be made in *London* or *Middlesex*, or where the Amerciaments of Sheriffs are granted to a Subject (as few are); all which Inconveniencies will be remedy'd by a Sequestration, if the Defendant hath any Estate real or personal, to sequester; and if he has not, the Prosecutor may take the usual Process against his Body, notwithstanding this Clause.

XII. As to a Clause for taking the Bill in Equity pro Confesso, for not appearing and answering in Six Months after the Sequestration Issues.

The present Practice is, that altho' the Defendant is duly serv'd with a Subpena to appear yet if he does not enter his Appearance, the Court can't decree the Bill to be taken *pro Confesso*, whereby 'tis in the Defendants Power to elude Justice, and baffle the Plaintiff at pleasure, and is often of dangerous consequence; as where there are Co-partners, Co-executors, or Trustees, and great Sums received or wasted by them, one of them is kept out of the way, and will not appear; therefore the Plaintiff can't go to hearing,
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not have any Decree against the Rest ; so the whole Demand is often spent, or lost by Insolvency, or by Death ; and Representatives know nothing of the Management, or pretend the Person who would not appear (if dead) had all the Estate in demand in his Hands. This Clause also establishes a better Method against Corporations than any yet known.

XIII. As to the delivery of a Copy of the Bill to Prisoners.

'Tis upon the same reason as delivery of Declarations at Law, whereon at the Expiration of a Rule, the Plaintiff signs Judgment, and is so Established by Act of Parliament lately made : But the present Practice in Equity, is, that the Prisoner must be brought up to Town by *Habeas Corpus*, and into Court ; and if he won't Answer, he is brought up thrice before the Court by so many several Writs of *Habeas Corpus*, viz. The first *Habeas Corpus*, an *Alias*, & *Plures Habeas Corpus*, at fifteen or twenty Pounds Expence to the Plaintiff ; and if he will not answer on the third Writ, the Court decrees the Bill *pro Confesso*. But if he puts in either Answer, Plea, or Demurrer on the third Writ (although never so insufficient or trifling) the Plaintiff is then to begin again *de Novo*, as if no such Delay or Expence had been : And so run the Gantlet thro' the whole course of Delays in Arguing the Plea or Demurrer, and in Masters Reports and Arguings and Rearguings of Exceptions to insufficient Answers and Reports as aforesaid, before he can joyn Issue for Hearing.

XIV. That every Person to be sworn an Attorney, or admitted a Solicitor, should serve five Years ; and none but such be allowed to practice.

It is certainly most reasonable and necessary that they should be well instructed and Qualified who are to be Attorneys and Solicitors, whose Office and Business requires so much Skill and Judgment, that upon their good or bad Conduct, the whole Fortunes of Men very often depend: And this will also prevent the Frauds, as well as the great Mischiefs, which are occasioned by those who practice in other Persons Names, and have had no other Instruction than what the Experience of their own Misfortunes has furnished them with, who being become Bankrupts in Trade, doe then frequently set up for skilful Practitioners in the Law, and the notorious Mischiefs that are daily occasioned by them in Practice, are become so intollerable, that they may justly be reckoned amongst the greatest Grievances of the Nation.

XV. That no Attorneys or Solicitors, should have more, than two Clerks at one time.

This will prevent the too great Increase of the Number of Attorneys and Solicitors, which without doubt very often occasions great Delays and Expences; for when the Professors grow very numerous, business must necessarily be divided into a great many Hands, so that a great many Persons will have but a small share of Business, and very often not so much as will maintain them; and they having nothing else to depend on for subsistence, must necessarily be exposed to the Temptation of doing little and poor Actions, and the creating and promoting of Business, in order to get their Livelyhood by it, or at least they will be tempted under such Circumstances to keep Business in their Hands as long as they can; the Consequence

whereof is not only a Delay, but a great Charge to the Subject, which 'tis hoped this Clause will in some measure redress.

These Lines being designed to shew the Reason of some of the Delays and Expences in Suits in Law and Equity, have therefore been confin'd to the Particulars before-mentioned: And though 'tis too true, that there are many other Dila- tory, useless and expensive Proceedings, which have almost repealed *Magna Charta*; as to the Clause there- of which says, *Nulli Vendemus nulli negabimus aut differemus Justitiam vel rectum*: Yet 'tis hoped the Ex- ample of a Bill now proposed, if made a Law, would influence the Courts themselves to regulate several more of the Abuses, or give Foundation to a further Regulation by the Legislature: But till the Parlia- ment has begun, till some good Law is made to re- dress the present extravagant Charges in Suits, little or nothing is to be expected from the inferiour Courts, which have hitherto done nothing, or very little, for a Reformation, notwithstanding the many Attempts in Parliament on this Subject, and the many Instances of Families ruined by those Expences and Delays: The Reason of all is this, That the Officers who get by these Proceedings, buy their Places; and no doubt, but that the Bill now depending will be opposed by them, and if by this Buying, the unnecessary Charges in the Methods of Proceedings are be- come so much the Property of the Officers, as not to be Abrogated or Altered without their Consent; then indeed all Attempts of this na- ture, are vain; but the Courts having in some Instances altered the manner of Proceeding, and several Acts of Parliament having done the like,

like, and many of these Purchases being contrary to an exprefs Act of Parliament; its humbly hoped that 'twill be well *remarked* who they are that oppose this Bill, and that no Opposition arising from Principles of Profit, and not of Reason; of Private, not Publick Good, will prevail, so as to continue the Nation under these Delays, and unnecessary Expences of Suits, which even render Right and Property precarious, and make wise Men compound rather than contend for them.

Besides, these Officers ought in common Civility, quietly to part with the Profits arising by these dilatory and useless Proceedings; since they have gained many Fees and Perquisites created by several Acts of Parliament, and Rules of their Respective Courts. Thus the Chancery gained by the Laws concerning Bankrupts, and the Courts of Law by the *Habeas Corpus*, and escape Acts, by Writs of Error into the *Exchequer-Chamber*; by common Recoveries, by Entering and Dog-getting Judgments, and by the new Method of Proceedings on Ejectments, and in many other Instances.

The Late Act for the Amendment of the Law, expressly takes away the *Dedimus* Bill from Courts of Equity, as being useless, tho' belonging to such who had purchased their Places; and that Act also in consequence, took away above one half of the Fees of the Clerks of the Papers of the *Quens-Bench*, in requiring an Oath to the Truth of all Dilatory Pleas; and yet neither the Clerks of the *Exchequer*, for the loss of their *Dedimus* Bill, nor the Clerks of the Papers for the loss of their Fees, had any Recompence, and the Recompence to the Clerks in *Chancery*, was out of ancient Fees of the Six-Clerks, who insisted on a Right by
Pur-

Purchase ; so that the Reason of this, as well as many other Acts of Parliament, made for preventing vexatious and Dilatory Proceedings, will hold the same in the Clauses above.

The Delays and unnecessary Expences in Suits, having been universally agreed to be so Exorbitant, as to want Redress : And as the Case now stands, the Practicers being accused for the Officers Faults, this occasioned the offering of these Reasons for the Bill now depending, whereby it will appear, no other Interest has been consulted than that of the Publick ; for as the Philizers and Cursitors lose their Writs, so the Attorney loses much more than both ; viz. his Fee of 3 s. 4 d. for suing out each Writ. This Act likewise Subjects all Solicitors in Chancery, to be admitted as such, (which no Law or Custom now in being obliges them to) and compels all Persons who Practice as Attorneys, to be Entered and Sworn, which will bring in several Thousands to be Sworn, and each Attorney or Solicitor being to pay 4 l. to the Stamp Duty : That will abundantly recompence the Publick, for any small loss that may happen to that Part of the Revenue, by the making of such a Law as is now desired.



P I N I S

